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12 Attorneys for Defendants

13 UNITED STATES DISTRICT COURT
14 CENTRAL DISTRICT OF CALIFORNIA

15 TRAFFICSCHOOL.COM, INC., a
16 California corporation; DRIVERS ED
DIRECT, LLC., a California limited
17 liability company,

18 Plaintiffs,

19 v.

20 EDRIVER, INC., ONLINE GURU,
INC., FIND MY SPECIALIST, INC.,
21 and SERIOUSNET, INC., California
corporations; RAVI K. LAHOTI, an
22 individual; RAJ LAHOTI, an
individual; DOES 1 through 10,

23 Defendants.
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Case No. CV 06-7561 PA (CWx)

**DECLARATION OF BRIAN
DAUCHER IN SUPPORT OF EX
PARTE APPLICATION TO
CONTINUE HEARING ON
CONTEMPT MOTION**

[Filed with Ex Parte Application and
[Proposed] Order]

Complaint Filed: November 28, 2006
Jury Trial: October 30, 2007

DECLARATION OF BRIAN M. DAUCHER

I, Brian M. Daucher, hereby declare the following:

1. I am an attorney at law, duly licensed to practice before all courts in the state of California. I am a partner in the law firm of Sheppard, Mullin, Richter & Hampton LLP, counsel of record for EDriver, Inc., Online Guru, Inc., Find My Specialist, Inc., SeriousNet, Inc., Ravi K. Lahoti and Raj Lahoti ("Defendants"), defendants in this matter. I have personal knowledge of the facts hereinafter stated and, if sworn as a witness, could and would testify competently thereto.

2. In September 2008, after entry of the injunction, defendants promptly installed a splash page. Additionally, on the site itself, they added and have maintained a large highlighted disclaimer at the top of every page containing this Court's disclaimer language, as well as other pre-existing disclaimers and safeguards including "Unofficial Guide to the DMV" in the logo and on state home pages as well as screens/filters designed to ensure that visitors do not send personal information to DMV.ORG. In spite of these efforts, plaintiffs initiated meet and confer almost immediately on alleged contempt; we responded timely and with suitable responsive corrections where indicated. The last of these communications, to my recollection and records, occurred on or about September 25, 2008. Therefore we were surprised yesterday, more than three months later, to receive electronic service of plaintiffs' extensive motion for contempt and six declarations. I immediately initiated meet and confer on extending the hearing date from shortest possible notice to allow reasonable time to frame a response; ultimately, plaintiffs refused any extension and have indicated their intent to oppose this ex parte application to continue the hearing date. True and correct copies of these communications are attached as Exhibit A hereto.

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1 3. Due to a prior commitment, I will not be available to attend a hearing
2 on February 9, 2009, but would be available on other Mondays before or after that date.

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4 I declare under penalty of perjury under the laws of the United States of
5 America that the foregoing is true and correct and that I executed this declaration on
6 January 4, 2009 in Costa Mesa, California.

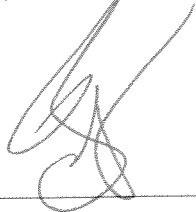
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9 _____
10 BRIAN M. DAUCHER
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EXHIBIT A

Brian Daucher

From: Mina Hamilton [HAMILTON@lbbslaw.com]
Sent: Tuesday, January 06, 2009 9:18 AM
To: Brian Daucher
Cc: DeCarlo, Dan; Makous, David; Serwin, Andrew B.
Subject: RE: Contempt Motion

Brian,

You ignored my questions about Adobe 9. Were you able to access the files?

We will oppose your ex parte.

-Mina

Mina I. Hamilton, Esq.
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communication in error, please notify us immediately
by return e-mail and delete the original message from
your e-mail system. Thank you.

>>>

From: "Brian Daucher" <BDaucher@sheppardmullin.com>
To: "Mina Hamilton" <HAMILTON@lbbslaw.com>
CC: "DeCarlo, Dan" <DECARLO@lbbslaw.com>, "Makous, David"
<MAKOUS@lbbslaw.com>, "Serwin, Andrew B." <ASerwin@foley.com>
Date: 1/5/2009 8:27 PM

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Subject: RE: Contempt Motion

Mina,

Is this just venting, or is it really a refusal?

Raj is also out of town this week for good measure.

We will be in Court ex parte tomorrow if necessary. I can't believe you would decide to start this this way, but it's your choice.

Let us know by 10 am, regards,

Brian.

From: Mina Hamilton [mailto:HAMILTON@lbbslaw.com]

Sent: Monday, January 05, 2009 7:37 PM

To: Brian Daucher

Cc: DeCarlo, Dan; Makous, David; Serwin, Andrew B.

Subject: RE: Contempt Motion

Brian,

First, what do you mean you cannot access the materials? Please let me know whether you or did you not get my email telling you to use Adobe 9. It's free to download online. Have you tried to access it with Adobe 9 or not?

Second, as to the issues the motion raises, while we agree that they are serious violations, you were advised and given notice of them long ago, and we do not understand why your clients, once advised of them, did not make any efforts to address them. You never communicated to us since our last communications that your clients were working on things, making progress, willing to address the issues, etc. You have had adequate time to think of these issues and prepare your response (and in most cases, have done so, stating that you didn't think any violation existed).

Regarding our communications over the past months, I labeled them all with "Notice of Non-compliance [etc.]" and you responded to them. That shouldn't take long to find.

Unless you have some authority or Local Rule that states that the notice is not sufficient for a contempt motion, we believe you have adequate time to respond as per the Local Rules and will not agree to extend the date until Feb. 16 because you are busy this week. This is a priority.

Finally, I disagree that our clients' input is not relevant.

Regards,

EXHIBIT A PAGE 4

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>>>

From: "Brian Daucher" <BDaucher@sheppardmullin.com>
To: "Mina Hamilton" <HAMILTON@lbbslaw.com>
CC: "DAN DECARLO" <DECARLO@lbbslaw.com>, "DAVID MAKOUS" <MAKOUS@lbbslaw.com>, "Serwin, Andrew B." <ASerwin@foley.com>
Date: 1/5/2009 7:09 PM
Subject: RE: Contempt Motion

Mina,

The first point is that the motion is lengthy, raises serious issues, and includes five or so supporting declarations (some with materials that we cannot yet access). This requires review and assembly of numerous communications between us over the past five months and will take a significant amount of time.

Given that this is the first week of the year, both Andy and I, as I am sure you, are very busy.

You took ample time to prepare the motion, apparently more than two full months (since October as you note below). Giving us half that time to respond is well within reason.

EXHIBIT A PAGE 5

As you know, Judge Anderson's scheduling order specifies that summary judgment motions are to be set on more than minimum notice; this motion, in terms of the relief it seeks and the scope of evidence at issue is akin to such a motion, perhaps more important given that it alleges violation of a court order, something which must be proven according to a heightened standard, because of the heightened stakes.

This decision is yours as counsel and not your client's decision, in as much as this is a matter of procedure and professional responsibility not a substantive decision for the clients. We trust that you will agree to the short extension we ask, and thereby avoid forcing this issue before Judge Anderson.

Regards,

Brian.

From: Mina Hamilton [mailto:HAMILTON@lbbslaw.com]
Sent: Monday, January 05, 2009 6:07 PM
To: Brian Daucher
Cc: DAN DECARLO; DAVID MAKOUS; Serwin, Andrew B.
Subject: Re: Contempt Motion

Brian,

I am checking with the clients on the extension request, but we are unclear as to the basis for your request. You have known about these issues since September and Mr. Serwin was specifically advised as well in late October of our continued intent to seek contempt if the issues were not resolved. We have given your clients more than adequate time to address these issues and comply, but no progress has ever been made by your clients.

What is so new or shocking that you cannot respond within the Local Rule time period? Your clients now have two sets of able counsel, so I'm unclear about why you cannot reply on time.

Please advise or call me to discuss if you prefer.

Regards,
Mina

Mina I. Hamilton, Esq.
Lewis Brisbois Bisgaard & Smith LLP

EXHIBIT A PAGE 6

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 e-mail: hamilton@lbbslaw.com

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>>>

From: "Brian Daucher" <BDaucher@sheppardmullin.com>
To: "Mina Hamilton" <HAMILTON@lbbslaw.com>
CC: "Serwin, Andrew B." <ASerwin@foley.com>
Date: 1/5/2009 5:15 PM
Subject: Contempt Motion

Mina,

Having heard nothing from you for months on this case, we were surprised this afternoon to receive a contempt motion accompanied by numerous declarations

Obviously, the issues you present are serious, if without merit in our view.

You have noticed this motion on the shortest possible time, leaving defendants but one week to respond.

We request that you agree to continue this motion to Feb 16 to give us reasonable time to respond to the motion (I am not available Feb 9).

We trust that you will see the necessity of extending this time in light of the questions presented.

Please advise whether you will stipulate to continue, or if we need ask the Court for this time.

Thank you for your consideration of this request, regards,

Brian.

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